

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2191**

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**Introduced by Assembly Member Mullin**

February 20, 2008

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An act to amend Sections 24950 and 25100, 24953, 25100, 25101, 25111, 25112, 25113, 25114, and 25115 of the Education Code, to amend Section 1153 of, and to repeal Section 12420.2 of, the *to amend Section 12420.2 of the* Government Code, and to amend Section 770.3 of the Insurance Code, relating to public employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 2191, as amended, Mullin. Public employees: annuities.

Existing law prohibits state and local agencies from negotiating life and disability insurance or requiring the placing of that insurance through particular agents, brokers, or companies, except to the extent that the state has a direct financial interest in the subject of the insurance, as specified. Existing law excepts from these provisions a tax-sheltered annuity under an annuity plan that meets the requirements of Section 403(b) of the Internal Revenue Code to be placed or purchased for an employee, as specified. Existing law permits the Controller to purchase annuity contracts for permanent employees of specified state entities, *and requires the Controller to install and operate a uniform state payroll system, as specified*. Existing law requires an annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code to be offered to all employees of any state agency who are members of the State Teachers' Retirement Plan. The Teachers' Retirement Law provides a registration process for information relating to tax-deferred retirement investment products.

This bill would ~~eliminate~~ *revise* the authority of the Controller to purchase annuity contracts for employees of state entities, as described above, *to specify that this authority may be exercised on behalf of any state employer under the uniform state payroll system, excluding the California State University System, that employs persons eligible to participate in an annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code of 1986.* The bill would require the Teachers' Retirement Board of the State Teachers' Retirement System to offer an annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code to eligible state employees of the entities ~~formerly served by the Controller~~ *a state employer under the uniform state payroll system, excluding the California State University System, as described above.* The bill would make the registration process for information relating to tax-deferred retirement investment products applicable to ~~these entities~~ *eligible state employees of these employers.* The bill would make various conforming changes and delete obsolete references.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 24950 of the Education Code is amended
- 2 to read:
- 3 24950. (a) An annuity contract and custodial account as
- 4 described in Section 403(b) of the Internal Revenue Code of 1986
- 5 shall be offered to :
- 6 (1) All employees of any state agency who are members of the
- 7 plan under this part.
- 8 (2) Any employee of a local public agency or political
- 9 subdivision of this state that employs persons to perform creditable
- 10 service subject to coverage by the plan under this part.
- 11 ~~(3) Permanent employees of any the following entities who are~~
- 12 ~~eligible:~~
- 13 ~~(A) State Department of Education.~~
- 14 ~~(B) Department of Corrections and Rehabilitation.~~
- 15 ~~(C) Board of Governors of the California Community Colleges.~~
- 16 ~~(D) State Department of Mental Health.~~
- 17 ~~(E) California Maritime Academy.~~
- 18 ~~(F) Commission for Teacher Credentialing.~~

1 ~~(G) State Department of Developmental Services.~~

2 ~~(H) California State Library.~~

3 ~~(I) California Postsecondary Education Commission.~~

4 ~~(J) Department of Consumer Affairs.~~

5 ~~(K) Board of Vocational Nurse and Psychiatric Technician~~  
6 ~~Examiners.~~

7 ~~(L) Board of Registered Nursing.~~

8 *(3) Any state employee of a state employer under the uniform*  
9 *state payroll system, excluding the California State University*  
10 *System, eligible to participate in an annuity contract and custodial*  
11 *account as described in Section 403(b) of the Internal Revenue*  
12 *Code of 1986.*

13 (b) The following criteria shall apply to that annuity contract  
14 and custodial account:

15 (1) The annuity contract and custodial account shall be offered  
16 for at least five years.

17 (2) The annuity contract and custodial account may be  
18 administered by a qualified third-party administrator that shall,  
19 under agreement with the system, provide custodial, investment,  
20 recordkeeping, or administrative services, or any combination  
21 thereof. The third-party administrator may not provide investment  
22 options other than pursuant to a shareholders' services agreement  
23 between the third-party administrator and the investment manager.

24 (3) The investment options offered shall be determined by the  
25 board consistent with those annuity contract and custodial accounts  
26 described in Section 403(b) of the Internal Revenue Code of 1986.

27 (4) The system's investment staff shall make recommendations  
28 to the board as to the appropriate investment options. At a  
29 minimum, the board shall offer at least three investment options.  
30 The board shall have sole responsibility for the selection of service  
31 providers.

32 (5) All contributions made in accordance with the provisions  
33 of Section 403(b) of the Internal Revenue Code of 1986 and this  
34 section shall be remitted directly to the administrator and held by  
35 the administrator in a custodial account on behalf of the employee.  
36 Any investment gains or losses shall be credited to those accounts.  
37 The forms of payment and disbursement procedure shall be  
38 consistent with those generally offered by similar annuity contracts  
39 and custodial accounts and applicable federal and state statutes  
40 governing those contracts and accounts.

(6) Any employer, other than the state, may elect to make contributions to the employee's annuity contract and custodial account on behalf of the employee. The employer shall take whatever action is necessary to implement this section, including the adoption of an annuity contract and custodial account, or provide the appropriate authorization in accordance with the provision of Section 403(b) of the Internal Revenue Code of 1986. Employer contributions made under this section are excluded from the definition of creditable compensation as provided in Section 22119.2.

(7) The design and administration of the annuity contract and custodial account shall comply with the applicable provisions of the Internal Revenue Code of 1986 and the Revenue and Taxation Code. Section 770.3 of the Insurance Code shall not be applicable.

*SEC. 2. Section 24953 of the Education Code is amended to read:*

24953. (a) For purposes of this section, the following definitions shall apply:

(1) "Annuity contract" means an annuity contract described in Section 403(b) of the Internal Revenue Code that is available to employees as described in Section 770.3 of the Insurance Code.

(2) "Custodial account" means a custodial account described in Section 403(b)(7) of the Internal Revenue Code.

(3) "Third-party administrator" means a person or entity other than the system that provides administrative or compliance services to the system as described in subdivision (b).

(b) An employer that employs persons to perform creditable service subject to coverage by the plan under this part, *or the Controller on behalf of any state employer under the uniform state payroll system, excluding the California State University System, that employs persons eligible to participate in an annuity contract or custodial account as described in Section 403(b) of the Internal Revenue Code of 1986*, may enter into a written contract with the system for services regarding an annuity contract and custodial account provided by the employer. That contract may include any of the following:

(1) Services to ensure compliance with Section 403(b) of the Internal Revenue Code regarding the annuity contract and custodial account including, but not limited to, services that permit the system to do any of the following:

1 (A) Administer and maintain written plan documents governing  
2 the employer's plan.

3 (B) Review and authorize hardship withdrawal requests, transfer  
4 requests, loan requests and other disbursements permitted under  
5 Section 403(b) of the Internal Revenue Code.

6 (C) Review and determine domestic relations orders as qualified  
7 domestic relations orders as described in Section 414(p) of the  
8 Internal Revenue Code.

9 (D) Provide notice to eligible employees that is consistent with  
10 Title 26 of the Code of Federal Regulations that those employees  
11 may participate in an annuity contract and custodial account.

12 (E) Administer and maintain specimen salary reduction  
13 agreements for the employer and employees of that employer to  
14 initiate payroll deferrals.

15 (F) Monitor, from information provided either directly from the  
16 employee, as part of the common remitting services provided  
17 pursuant to paragraph (2), through information provided by the  
18 employer, or through information provided by vendors authorized  
19 by the employer to provide investment products, the maximum  
20 contributions allowed by employees participating in the annuity  
21 contract and custodial account as described in Sections 402(g),  
22 414(v), and 415 of the Internal Revenue Code.

23 (G) Calculate and maintain vesting information for contributions  
24 made by the employer to the annuity contract and custodial  
25 account.

26 (H) Identify and notify employees that are required to take a  
27 minimum distribution of the funds in that employee's annuity  
28 contract and custodial account as described in Section 401(a)(9)  
29 of the Internal Revenue Code.

30 (I) Coordinate responses to the Internal Revenue Service if there  
31 is an Internal Revenue Service audit of the annuity contract and  
32 custodial account.

33 (2) Services to administer the annuity contract and custodial  
34 account that include, but are not limited to, all of the following:

35 (A) Common remitting services.

36 (B) General educational information to employees about the  
37 annuity contract and custodial account that includes, but is not  
38 limited to, the enrollment process, program eligibility, and  
39 investment options.

1 (C) Internal reports for the employer to ensure compliance with  
2 Section 403(b) of the Internal Revenue Code and Title 26 of the  
3 Code of Federal Regulations.

4 (D) Consulting services related to the design, operation, and  
5 administration of the plan.

6 (E) Internal audits, on behalf of an employer, of a provider's  
7 plan compliance procedures with respect to the provider's annuity  
8 contract and custodial account offered under the employer's plan.  
9 These audits shall not be conducted more than once per year for  
10 a provider's plan, unless documented evidence indicates a problem  
11 in complying with Section 403(b) of the Internal Revenue Code.

12 (c) If the system elects to contract with a third-party  
13 administrator for the administrative or compliance services to  
14 employers described in subdivision (b), the system shall do all of  
15 the following:

16 (1) Determine that hiring the third-party administrator is in the  
17 best interest of the participants to the annuity contract and custodial  
18 account, their beneficiaries, and the employer that provides that  
19 annuity contract and custodial account.

20 (2) Require the third-party administrator to provide proof of  
21 liability insurance and a fidelity bond in an amount determined by  
22 the system to be sufficient to protect the assets of participants and  
23 beneficiaries in the annuity contract and custodial account.

24 (3) Require evidence, if the third-party administrator is related  
25 to or affiliated with a provider of investment products pursuant to  
26 Section 403(b) of the Internal Revenue Code, that data generated  
27 from the services provided by the third-party administrator are  
28 maintained in a manner that prevents the provider of investment  
29 products from accessing that data.

30 (d) Any personal information obtained by the system in  
31 providing services pursuant to this section shall be used by the  
32 system only to provide those services for the employer in  
33 accordance with the contract entered into with the employer  
34 pursuant to subdivision (b).

35 (e) Nothing in this section requires an employer to contract with  
36 the system for the administrative or compliance services described  
37 in subdivision (b). A written contract for the administrative or  
38 compliance services described in subdivision (b) shall be on behalf  
39 of and at the request of the employer.

(f) Nothing in this section shall be construed to interfere with either:

(1) The rights of employees or beneficiaries as described in Section 770.3 of the Insurance Code.

(2) The ability of an employer to establish nonarbitrary requirements upon providers of an annuity contract that, in the employer's determination, aid in the administration of its benefit programs and do not unreasonably discriminate against any provider of an annuity contract or interfere with the rights of employees or beneficiaries as described in Section 770.3 of the Insurance Code.

(g) The cost of providing administrative or compliance services pursuant to this section shall be deemed to be a cost incurred by the employer and subject to subdivision (b) of Section 44041 or subdivision (b) of Section 87040, *as may be applicable*.

(h) In any conflict between this section and Section 44041.5 or 87040.5, including, with respect to the provision of services provided pursuant to a contract between an employer and the system, the provisions of this section shall prevail.

(i) The system shall disclose to an employer seeking the services described in this section any fees, commissions, cost offsets, reimbursements, or marketing or promotional items received by the system or a third-party administrator from any plan provider selected as a vendor of an annuity contract or custodial account by the employer. If the system or a third-party administrator is affiliated with or has a contractual relationship with a provider of annuity contracts or custodial accounts, the system or third-party administrator shall disclose the existence of that relationship to each employer and employee participating in the annuity contract or custodial account.

~~SEC. 2.~~

*SEC. 3.* Section 25100 of the Education Code is amended to read:

25100. (a) The board shall establish a vendor registration process through which information about tax-deferred retirement investment products as described in Section 403(b) of the Internal Revenue Code of 1986 shall be made available for consideration by public employees of all local school districts, community college districts, county offices of education, and ~~all entities described in Section 24950.~~ *state employees of a state employer under the*

1 *uniform state payroll system, excluding the California State*  
2 *University System, eligible to participate in an annuity contract*  
3 *and custodial account as described in Section 403(b) of the Internal*  
4 *Revenue Code of 1986.*

5 (b) For the purposes of this chapter, “403(b) product or 403(b)  
6 products” means tax-deferred retirement investment products as  
7 described in Section 403(b) of the Internal Revenue Code of 1986,  
8 and its subsequent amendments, and complying with applicable  
9 California insurance laws, and federal and California securities  
10 laws and rules as applied by appropriate regulatory entities.

11 (c) For the purposes of this ~~chapter~~, “~~vendor~~” *chapter*:

12 (1) “*Employer*” means any local school district, community  
13 college district, or county office of education, or any state employer  
14 under the uniform state payroll system, excluding the California  
15 State University System, with employees eligible to participate in  
16 an annuity contract and custodial account as described in Section  
17 403(b) of the Internal Revenue Code of 1986, with the Controller  
18 acting on the state employer’s behalf.

19 (2) “*Vendor*” means a public retirement system, broker-dealer,  
20 registered investment company, nonbank custodian, or life  
21 insurance company qualified to do business in California that  
22 provides 403(b) products. “Vendor” does not include individual  
23 registered representatives, brokers, financial planners, or agents.  
24 “~~Nonbank~~

25 (3) “*Nonbank custodian*” means a fund custodian, other than a  
26 bank, that meets the criteria of a trustee specified in Section  
27 408(a)(2) of the Internal Revenue Code. “~~Broker-dealer~~”

28 (4) “*Broker-dealer*” means only those broker-dealers who offer  
29 a proprietary 403(b) product or who charge fees that are otherwise  
30 not disclosed.

31 ~~SEC. 3. Section 1153 of the Government Code is amended to~~  
32 ~~read:~~

33 ~~1153. The Controller shall provide for the administration of~~  
34 ~~payroll deductions as set forth in Sections 1151, 1151.5, and 1152,~~  
35 ~~and properly authorized deductions for salary reductions.~~

36 ~~In administering these programs the Controller shall:~~

37 ~~(a) Make, cancel, or change a deduction or reduction at the~~  
38 ~~request of the person or organization authorized to have the~~  
39 ~~deduction or reduction. All requests shall be made on forms~~  
40 ~~approved by the Controller.~~



1 ~~(b) Obtain a certification from any state agency, employee~~  
2 ~~organization, or business entity requesting a deduction or reduction~~  
3 ~~that they have and will maintain an authorization, signed by the~~  
4 ~~individual from whose salary or wages the deduction or reduction~~  
5 ~~is to be made.~~

6 ~~(c) Provide for an agreement from individuals, organizations,~~  
7 ~~and business entities receiving services to relieve the state, its~~  
8 ~~officers and employees, of any liability that may result from~~  
9 ~~making, canceling, or changing requested deductions or reductions.~~  
10 ~~However, no financial institution receiving a payroll service~~  
11 ~~pursuant to this section shall be required to reimburse the state for~~  
12 ~~any error in the payroll service received by that financial institution~~  
13 ~~after 90 days from the month in which the payroll service was~~  
14 ~~deducted from an individual's paycheck.~~

15 ~~(d) Determine the cost of performing the requested service and~~  
16 ~~collect that cost from the organization, entity, or individual~~  
17 ~~requesting or authorizing the service. Services requested which~~  
18 ~~are incidental, but not necessary, to making the deduction may be~~  
19 ~~performed at the Controller's discretion with any additional cost~~  
20 ~~to be paid by the requester. At least 30 days prior to implementation~~  
21 ~~of any adjustment of employee costs pursuant to Section 12420.2,~~  
22 ~~the Controller shall notify in writing any affected employee~~  
23 ~~organization.~~

24 ~~(e) Prior to making a deduction for an employee organization~~  
25 ~~or a bona fide association, determine that the organization or~~  
26 ~~association has been recognized, certified, or registered by the~~  
27 ~~appropriate authority.~~

28 ~~(f) Decline to make salary services for any individual,~~  
29 ~~organization, or entity if the Controller determines that it is not~~  
30 ~~administratively feasible or practical, or if the Controller~~  
31 ~~determines that the individual, organization, or entity requesting~~  
32 ~~or receiving the salary service has failed to comply with any statute,~~  
33 ~~rule, regulation, or procedure for the administration of salary~~  
34 ~~services.~~

35 ~~(g) Make, cancel, or change a deduction or reduction not later~~  
36 ~~than the month subsequent to the month in which the request is~~  
37 ~~received. Except as provided in subdivision (c), all cancellations~~  
38 ~~or changes shall be effective when made by the Controller.~~

39 ~~(h) At the request of a state agency, transfer employee deduction~~  
40 ~~authorization for a state-sponsored benefit program from one~~

1 provider to another if the benefit and the employee contribution  
2 remain substantially the same. Notice of the transfer shall be given  
3 by the Controller to all affected employees.

4 SEC. 4. ~~Section 12420.2 of the Government Code is repealed.~~

5 SEC. 4. *Section 25101 of the Education Code is amended to*  
6 *read:*

7 25101. A prospective vendor of 403(b) products that offers  
8 those products, or the products of other 403(b) vendors, to ~~local~~  
9 ~~school districts, community college districts, county offices of~~  
10 ~~education employers~~ and their *eligible* employees, shall register  
11 those products with the board pursuant to this chapter. Registered  
12 vendors shall offer only registered 403(b) products as funding  
13 vehicles for 403(b) plans.

14 (a) Prospective vendors shall be registered with the board based  
15 upon a complete response to the disclosures required by this  
16 subdivision. This information shall be included in the impartial  
17 investment information bank established pursuant to Section 25104.  
18 The prospective vendors shall provide the following information:

19 (1) A statement of experience in California and in other states  
20 in providing retirement annuities, custodial account mutual fund  
21 arrangements, or other retirement products and related financial  
22 services under public employer retirement plans.

23 (2) A characterization by the vendor of its offering as either an  
24 annuity or custodial account, as defined under Sections 403(b)(1)  
25 and 403(b)(7) of the Internal Revenue Code, respectively.

26 (3) A disclosure of all expenses paid directly or indirectly by  
27 retirement plan participants, including, but not limited to, penalties  
28 for early withdrawals, declining or fixed withdrawal charges,  
29 surrender or deposit charges, management fees, and annual fees,  
30 supported by documentation as required for prospectus disclosure  
31 by the National Association of Securities Dealers and the Securities  
32 and Exchange Commission. Vendors shall be required to provide  
33 information regarding the impact of product fees upon a  
34 hypothetical investment, as described in Section 25104.

35 (4) The types of products, product features, including presence  
36 of two tier annuity features, services offered to participants, and  
37 information about how to access product prospectuses or other  
38 relevant product information.

39 (5) A discussion of the ability, experience, and commitment of  
40 the vendor to provide retirement counseling and education services,

1 including, but not limited to, access to group meetings and  
2 individual counseling by various means, including telephone and  
3 telecommunications devices for the deaf (TDD), Internet, and  
4 face-to-face consultations by registered representatives.

5 (6) A statement of the financial strength and stability of the  
6 vendor, as may be applicable, by identifying its ratings assigned  
7 by nationally recognized rating services that evaluate the financial  
8 strength of life insurance, mutual funds, and other similar  
9 companies.

10 (7) The location of offices and counselors, or method of  
11 distribution, of the vendor relative to serving ~~local school districts,~~  
12 ~~community college districts, and county offices of education~~  
13 ~~employers~~ and their *eligible* employees in California.

14 (8) A description of the ability of the vendor to comply with all  
15 applicable provisions of federal and state law governing retirement  
16 plans, including minimum distribution requirements and  
17 contribution limits.

18 (9) To the extent applicable, the demonstrated ability of the  
19 vendor to offer an appropriate array of accumulation funding  
20 options, including, but not limited to, a diversified mix of value,  
21 growth, growth and income, hybrid and index funds or accounts  
22 across large, mid, and small capitalization asset classes, both  
23 domestic and international. These investment products may include  
24 mutual funds, group or individual annuity contracts, fixed or  
25 variable annuity contracts, individual retirement annuities, interests  
26 in trust and collective trusts, separate accounts, and other financial  
27 instruments.

28 (10) A discussion of the range of administrative and customer  
29 services provided, including asset allocation, accounting and  
30 administration of benefits for individual participants, recordkeeping  
31 for individual participants, asset purchase, control, and safekeeping,  
32 execution of a participant's instructions as to asset and contribution  
33 allocation, calculation of daily net asset values, direct access for  
34 participants to their account information, periodic reporting to  
35 active participants, not less than quarterly, on their account  
36 balances and transactions, and compliance with the standard of  
37 care applicable in the provision of investment services and  
38 consistent with federal law.

(11) Certification by the vendor that the information provided to the board accurately reflects the provisions of the Section 403(b) products they register pursuant to this chapter.

(b) Registration may not be conditioned upon the content of the information.

(c) Vendors shall supply information and data in the format required by the board.

*SEC. 5. Section 25111 of the Education Code is amended to read:*

~~25111. Each local school district, community college district, and county office of education~~ *employer*, in consultation with the exclusive bargaining agent of its employees, if any, may develop a process to ensure that employees are aware of, and have access to, information provided in the impartial investment bank maintained by the board.

*SEC. 6. Section 25112 of the Education Code is amended to read:*

~~25112. Personnel, including elected school officials, acting on behalf of a local school district, community college district, or county office of education~~ *an employer*, may not receive consideration from a vendor in exchange for the promotion of a particular vendor or vendor's products.

*SEC. 7. Section 25113 of the Education Code is amended to read:*

~~25113. A local school district, community college district, or county office of education~~ *An employer* may not forward annuity or custodial account consideration to the vendor of any unregistered 403(b) product, except insofar as an employee continues making contributions to an unregistered product or products ~~purchased or entered into prior to the implementation date of the impartial investment bank, as established by this chapter as described in Section 25114.~~

*SEC. 8. Section 25114 of the Education Code is amended to read:*

~~25114. Employees~~ *Except as provided in this section, an employee* shall select from registered 403(b) products. ~~Notwithstanding Section 25113, an~~

(a) *An employee* of a local school district, community college district, or county office of education may continue to make contributions to unregistered products purchased or entered into

1 prior to the date of implementation of the impartial investment  
2 bank, as established by this chapter.

3 *(b) A state employee of a state employer under the uniform state*  
4 *payroll system, excluding the California State University System,*  
5 *eligible to participate in an annuity contract and custodial account*  
6 *as described in Section 403(b) of the Internal Revenue Code of*  
7 *1986, may continue to make contributions to unregistered products*  
8 *purchased or entered into prior to January 1, 2009.*

9 *SEC. 9. Section 25115 of the Education Code is amended to*  
10 *read:*

11 25115. For purposes of restricting the use of 403(b) investment  
12 products provided to *eligible* employees of ~~local school districts,~~  
13 ~~community college districts, and county offices of education~~  
14 ~~employers~~ by those vendors and investment products registered  
15 with the board pursuant to this chapter, the provisions of Section  
16 770.3 of the Insurance Code do not apply.

17 *SEC. 10. Section 12420.2 of the Government Code is amended*  
18 *to read:*

19 12420.2. The Controller may purchase annuity contracts ~~for~~  
20 ~~permanent employees of the State Department of Education,~~  
21 ~~Department of the Youth Authority, Board of Governors of the~~  
22 ~~California Community Colleges, Department of Corrections, State~~  
23 ~~Department of Mental Health, California Maritime Academy,~~  
24 ~~Commission for Teacher Credentialing, State Department of~~  
25 ~~Developmental Services, California State Library, California~~  
26 ~~Postsecondary Education Commission, Private Postsecondary~~  
27 ~~Vocational Education Council, Department of Consumer Affairs,~~  
28 ~~Board of Vocational Nurse and Psychiatric Technician Examiners,~~  
29 ~~and the Board of Registered Nursing, and shall reduce the salary~~  
30 ~~of each employee for whom an annuity contract is purchased by~~  
31 ~~the amount of the cost thereof on behalf of any state employer~~  
32 ~~under the uniform state payroll system, excluding the California~~  
33 ~~State University System, that employs persons eligible to~~  
34 ~~participate in an annuity contract and custodial account as~~  
35 ~~described in Section 403(b) of the Internal Revenue Code of 1986~~  
36 provided that all of the following conditions are met:

37 (a) The annuity contract is under an annuity plan which meets  
38 the requirements of subdivision (b) of Section 403 of the Internal  
39 Revenue Code ~~and Section 17512 of the Revenue and Taxation~~  
40 ~~Code.~~

1 (b) The employee makes application to the Controller for the  
2 purchase and reduction of salary.

3 (c) All provisions of the Insurance Code applicable to the  
4 purchase of those annuities are satisfied.

5 ~~SEC. 5.~~

6 *SEC. 11.* Section 770.3 of the Insurance Code is amended to  
7 read:

8 770.3. No state department or agency shall negotiate any life  
9 or disability insurance or require the placing of that insurance  
10 through particular agents, brokers, or companies, except to the  
11 extent that the state has a direct financial interest in the subject of  
12 the insurance. The state has no financial interest in an annuity  
13 purchased for an employee if the premium therefor is paid from a  
14 deduction from or reduction in the employee's salary, and any  
15 annuity paid for through a deduction or reduction shall not be  
16 deemed to have been provided by the state for its employees for  
17 purposes of this section, and the state shall not negotiate or require  
18 the placing of the annuity through particular agents, brokers, or  
19 companies. Nothing contained in this section shall affect the  
20 program of life and disability insurance in connection with  
21 veterans' farm and home purchases through the Department of  
22 Veterans Affairs except that the total life insurance benefit under  
23 that program shall in no event exceed 120% of the unpaid contract  
24 balance. Except in those cases where the premium for an annuity  
25 is paid entirely from a deduction from or reduction in an  
26 employee's salary, nothing contained in this section shall affect  
27 life or disability insurance programs which may be provided by  
28 the state for its employees.

29 Notwithstanding anything in this section to the contrary, in any  
30 case in which a tax-sheltered annuity under an annuity plan which  
31 meets the requirements of Section 403(b) of the Internal Revenue  
32 Code of 1954 is to be placed or purchased for an employee, the  
33 employee shall have the right to designate the licensed agent,  
34 broker, or company through whom the employee's employer shall  
35 arrange for the placement or purchase of the tax-sheltered annuity.  
36 In any case in which the employee has designated an agent, broker,  
37 or company, the employer shall comply with that designation,  
38 *except in the case of a designation subject to Section 1153 or*  
39 *Section 12420.2 of the Government Code, or Section 24950 of the*  
40 *Education Code.*

- 1 As used in this section, “state department or agency” shall
- 2 include, but not be limited to, school districts.
- 3 This section shall apply to all local governmental agencies, as
- 4 well as state departments and agencies.

O